

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,259

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare discontinuing the "home upkeep deduction" from her medicaid benefits. The issue is whether the regulations limit to six months this deduction from income for home upkeep during a temporary nursing home stay.

FINDINGS OF FACT

The facts are not in dispute. The petitioner, a recipient of medicaid, entered a nursing home in January, 1993, following hospital surgery. In February, 1993, the Department found her eligible for a deduction from her income for medicaid purposes of \$368.00 a month to assist the petitioner in maintaining her home, to which it was expected, based on a medical assessment of the petitioner at that time by her physician, the petitioner would return within six months. The Department's notice to the petitioner, dated February 23, 1993, made clear that this deduction was allowable only through August, 1993.

Unfortunately, the petitioner's convalescence was not as rapid as had been expected. She remains in the nursing home, but is now expected to return home in December, 1993. At the end of August, however, the Department notified her that her home upkeep deduction was no longer in effect.⁽¹⁾

ORDER

The Department's decision is affirmed.

REASONS

Medicaid Manual § M413.1, which sets out the circumstances under which individuals in a nursing home can qualify for a home upkeep deduction in determining their monthly income for medicaid purposes, is reproduced below.

In this case there is no question that the petitioner's condition did not improve as rapidly as it was first thought it would, and that this prevented her from leaving the nursing home by August, 1993. There does not appear to be any exception to the six-month limitation to the home upkeep deduction set forth in the above regulation. Therefore, the board is bound to affirm the Department's decision. Fair Hearing Rule No. 19 and 3 V.S.A. § 3091(d).

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1. By filing this timely appeal of that decision, however, the Department's action has been stayed, and the petitioner will not actually lose her monthly home upkeep deduction until the board affirms the Department's decision.